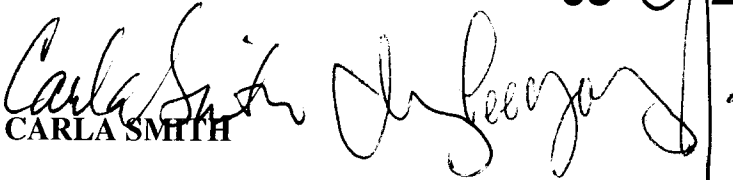


AN ORDINANCE

BY COUNCILMEMBER CARLA SMITH



AN ORDINANCE AMENDING SECTION 130-64 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA TO PROVIDE SUFFICIENT GUIDELINES AND REQUIREMENTS CONCERNING THE SITING OF TRANSFER STATIONS; AND FOR OTHER PURPOSES.

WHEREAS, it is the responsibility of the City of Atlanta to provide for the health, safety and welfare of its residents; and

WHEREAS, solid waste transfer stations and their operations represent potentially significant impacts for neighborhoods and communities; and

WHEREAS, providing proper guidelines and requirements regarding the siting of solid waste transfer stations can help to control and eliminate negative impacts that might result from the operations of a solid waste transfer station; and

WHEREAS, requiring private companies looking to site a solid waste transfer station to negotiate a Host City Agreement could provide sufficient protections for communities and their residents; and

WHEREAS, a Host City Agreement could be negotiated to the requirements and conditions of a specific site; and

WHEREAS, the City should require the negotiation of a Host City Agreement in order to ensure the safe operation of solid waste transfer stations and to sufficiently provide for the protection of its residents.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Section 130-64 of the code of ordinances be amended so that the new Section 130-64 shall read as follows:

Section 130-64. Privately operated solid waste transfer stations, processing and handling facilities.

- (a) A solid waste transfer station is a facility that receives and temporarily stores solid waste as defined by this ordinance at a location other than the generation site, and which facilitates the transfer of accumulated solid waste to another facility for further processing or disposal. This term includes any solid waste handling facility, but does not include recovered materials processing facilities, nor portable storage containers used for the collection of municipal solid waste.

(b) *Permitted locations.* Within the limits of the City of Atlanta, solid waste transfer stations and processing facilities are permitted only in areas with a Zoning Classification of I-1 or I-2, subject to the approval of Host City Agreement. In addition to any provisions and requirements established herein, the establishment and operation of any transfer station or processing facility must comply with any and all standards and provisions provided by the Environmental Protection Division of the State of Georgia.

(c) *Host City Agreement required.* Any business or person desiring to establish and operate a solid waste transfer station or processing facility within the limits of the city must first enter into a Host City Agreement with the City of Atlanta.

- (1) An executed Host City Agreement must be appended to, and included as part of, any application filed with the City for site location approval.
- (2) The following is a listing of the minimum content of applications for site location approval for a transfer station to be located within the City of Atlanta. The applicant may, at its discretion, provide additional information with its application, in addition to any further information required by the City.

- a. Residential buffers;
- b. Commercial buffers;
- c. Industrial buffers;
- d. Authorized waste;
- e. Transfer capacity;
- f. Host City benefits;
- g. Hours of operation;
- h. Parking facilities and traffic requirements;
- i. Transfer station operations;
- j. Landscaping and vegetative buffers;
- k. Stormwater management;
- l. Sanitary sewer and water service;
- m. Courtesy service facilities;
- n. Dust control;
- o. Odor control;
- p. Noise control;
- q. Rodent control;
- r. Fire, spill and accident prevention; and
- s. Any other information that may be required by the City.

- (3) *City Council approval required.* The Department of Planning and Community Development and the Department of Public Works shall submit to the City Clerk, for consideration and approval by the City Council, any proposed Host City Agreement.

- a. Beginning with the transmittal date of the proposed Host City Agreement to the City Clerk, the public shall be afforded a period of thirty (30) consecutive days in which to review any proposed Host City Agreement.
 - b. Within thirty (30) days following the expiration of the thirty (30) day review period mentioned above, the Council shall conduct not less than two (2) public hearings concerning the proposed Host City Agreement.
 - c. Following the period of time for public review and any public hearings held by the City Council, the proposed Host City Agreement shall be subject to the approval of the City Council, after making any amendments or revisions thereto that the City Council considers appropriate.
- (d) *Zoning requirements.* The Host City Agreement shall be developed and approved prior to and in addition to any special use permits or other provisions as required elsewhere in the code of ordinances of the City of Atlanta.
- (e) *Permit required.* Following the approval of a Host City Agreement and a special use permit, any business or person desiring to establish and operate a solid waste transfer station or processing facility within the limits of the city shall be granted a Solid Waste Transfer Station Operating Permit by the Department of Public Works.
 - (1) No Solid Waste Transfer Station Operating Permit shall be issued prior to the approval of a Host City Agreement by the City Council, for any proposed transfer station site.
 - (2) The permit shall be renewable annually, and must be obtained prior to the issuance of a business license. An annual permitting fee of \$6,500.00, for the purpose of ensuring that a transfer station or processing facility meets the applicable rules as set forth in this section and as set forth by federal and state authorities, shall be paid by the applicant.
 - (3) Inspections of solid waste transfer stations and processing facilities may be performed quarterly, or as determined necessary by the Department of Public Works.
 - (4) Any violations of a Host City Agreement shall be grounds for suspension or revocation of any permit issued according to the provisions of this section.
 - a. No permit issued by the city to any person or business under this division shall be suspended or revoked except for due cause, as provided in subsection (b) of this section.
 - b. *Due Cause.* In addition to any violation of a Host City Agreement, the Commissioner of Public Works may revoke a permit for:
 - 1. Filing a false or misleading statement in an application for a permit.
 - 2. Failure to maintain a valid license, permit or bond required under this article.
 - 3. Violation of any other provision of this chapter.

(5) *Enforcement procedures.*

- a. *Notice of violation.* Whenever the Department of Public Works finds that a violation of this ordinance has occurred, the Commissioner may order compliance by written notice of violation.
 1. The City of Atlanta may serve notice to abate a violation, by mailing such notice to the last-known address of the alleged violator.
 2. The notice of violation shall contain the following information:
 - A. The name and address of the alleged violator;
 - B. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - C. A statement specifying the nature of the violation;
 - D. A description of the remedial measures necessary to restore compliance with this chapter and a time schedule for the completion of such remedial action;
 - E. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and
 - F. A statement that the determination of violation may be appealed to the Department of Public Works by filing a written notice of appeal within thirty (30) days of service of notice of violation.
 3. Such notice may require actions including, but not limited to any of the following:
 - A. The performance of monitoring, analyses, and reporting;
 - B. That violating practices, or operations shall cease and desist;
 - C. The abatement or remediation of any pollution or contamination hazards and the restoration of any affected property; and
 - D. Payment of costs to cover administrative and abatement costs.
- b. *Appeal of Notice of Violation.*
 1. *Administrative remedy.*
 - A. Prior to any final order to comply with any Notice of Violation, the alleged violator shall be given the opportunity to appeal any Notice of Violation issued by the Department to the Commissioner of Public Works.
 - B. The city acting by and through its Commissioner of Public Works shall review the Notice of Violation, the reasons submitted by the alleged violator for determining such conditions not to be in violation, and shall issue a decision in writing.
 - C. If such decision is to affirm, overturn or modify said Notice of Violation, the Commissioner shall set forth the reasons for doing so.

2. *Judicial review.* Any person aggrieved by such decision, after exhausting his or her administrative remedies, shall have the right to appeal to the Superior Court of the county wherein which such alleged violation occurred or is proposed to occur, for review of such written decision.
 3. The Commissioner of the Department of Public Works shall conduct the review process for any Notice of Violation, as described in this section.
- c. *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of any decision of the Superior Court upholding the decision of the Department of Public Works and the Commissioner, then representatives of the Department of Public Works may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and restore the property. It shall be unlawful for any person, owner, agent of the owner or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
- d. *Costs of abatement of the violation.*
1. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs.
 - A. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within ten (10) days of such notice.
 - B. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within thirty (30) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.
 2. Any person or business shall be liable to the City for the total amount of all costs and expenses incurred by the city in abating a violation.
- e. *Enforcement.* The primary authority and responsibility for the enforcement of the provisions of this chapter shall be vested in the Commissioner of Public Works. Upon a determination that a person is in violation of this chapter, the Commissioner or his designee shall give written Notice of Violation that indicates they are in violation of a section in this chapter, and they may or issue a citation requiring the violator to appear before the judge of the municipal court for a hearing on the charge of violation of this chapter. Upon a finding that a section of this chapter has been violated, the violator shall be subject to one or more of the penalties provided in Section 130-12 of this Chapter. The commissioner shall provide the holder of the permit with

written notice of the proposed cause for revocation and of the date, time and place of the hearing at which the holder of the permit may be heard, may be represented by counsel and may produce evidence. Such written notice may be delivered at the place of business by certified mail or by posting and shall be given at least fifteen (15) days prior to the hearing date.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.